

Exhibit "2"



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May 8, 2023

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VIA EMAIL AND USPS

Mr. Kerry Culpepper
c/o Clinton Firm
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Re: Subpoena to Reddit, Inc., *After II Movie, LLC, et al. v. Grande Communications Networks, LLC*, 1:21-cv-709-RP, Western District of Texas

Dear Mr. Culpepper:

This firm represents Reddit, Inc. (“Reddit”) in connection with the subpoena you issued in the above-captioned matter dated April 22, 2023 (“Subpoena”). For the reasons stated below, Reddit objects to the Subpoena. If you disagree, please contact me to schedule a time to meet and confer.

First, Reddit objects to the Subpoena to the extent it seeks the identity of a Reddit user who made specific posts or comments, thereby implicating the First Amendment rights of that user to engage in anonymous speech. *Music Grp. Macao Com. Offshore Ltd. v. Does*, 82 F. Supp. 3d 979, 983 (N.D. Cal. 2015) (“It is well established that the First Amendment protects the right to anonymous speech.”). To unmask a non-party user, the requesting party must establish that: “(1) the subpoena seeking the information was issued in good faith and not for any improper purpose, (2) the information sought relates to a core claim or defense, (3) the identifying information is directly and materially relevant to that claim or defense, and (4) information sufficient to establish or to disprove that claim or defense is unavailable from any other source.” *Rich v. Butowsky*, No. 20-mc-80081-DMR, 2020 WL 5910069, at *4 (N.D. Cal. 2020) (quoting *Doe v. 2TheMart.com Inc.*, 140 F. Supp. 2d 1088, 1095 (W.D. Wash. 2001)); *see also* Ord. Denying Motion to Compel and Quashing Subpoena at 7, *In Re Subpoena to Reddit, Inc.*, No. 3:23-mc-80037-LB (N.D. Cal. Apr. 28, 2023), ECF No. 23 (quashing subpoena that fails to meet *2TheMart.com* standard for unmasking anonymous non-party users). It is not clear that these procedures have occurred, or that the Court has issued an order with the requisite First Amendment findings.

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Second, Reddit objects to the Subpoena to the extent it seeks documents or information that are in the possession, custody, or control of a party in the underlying action, not reasonably accessible due to burden or expense, or equally available from another source that is more convenient, less burdensome, or less expensive than requiring Reddit to produce such documents or information. Fed. R. Civ. P. 45(d)(1), (e)(1)(D); *Rembrandt Pat. Innovations v. Apple, Inc.*, No. 1:15-CV-438-RP, 2015 WL 4393581, at *1 (W.D. Tex. July 15, 2015) (quashing subpoena where “the information at issue is available from . . . a party to the litigation, [so] any interest Plaintiffs have in obtaining said information from a non-party is far outweighed by the burden imposed”); *Intermarine LLC v. Spliethoff Bevrachtungskantoor, B.V.*, 123 F. Supp. 3d 1215, 1218-19 (N.D. Cal. 2015) (“The Ninth Circuit has long held that nonparties subject to discovery requests deserve extra protection from the courts.”) (quoting *High Tech Med. Instrumentation, Inc. v. New Image Indus., Inc.*, 161 F.R.D. 86, 88 (N.D. Cal. 1995)). As a disinterested non-party, Reddit should not be subjected to the burden of searching for and producing such documents or information unless and until all reasonable means of obtaining that information directly from such other sources have been exhausted. For example, Plaintiffs or Defendants should be able to access and provide data regarding customers that might have engaged in copyright infringement at some point in the last several years. Non-party discovery is not available to confirm the completeness or accuracy of party discovery. And directing these requests to a party would not involve setting aside the fundamental First Amendment rights of uninvolved third parties.

Third, Reddit objects to the Subpoena as overbroad because Reddit does not believe your request to be appropriately limited to data necessary for your litigation. All discovery requests must be relevant to a claim or defense or the subject matter of the underlying action. *See, e.g.*, Fed. R. Civ. P. 26(b); *Rivera v. NIBCO, Inc.*, 364 F.3d 1057, 1072 (9th Cir. 2004) (“District courts need not condone the use of discovery to engage in ‘fishing expedition[s].’”); *Hansen v. Alamo Mobile X-Ray & EKG Servs., Inc.*, No. SA-14-CA-01070-FB, 2015 WL 12866215, at *3 (W.D. Tex. Oct. 7, 2015) (quashing subpoena where the “efforts to use third-party subpoenas. . . ‘amount[ed] to nothing more than a fishing expedition’”). The Subpoena identifies a relevant timeframe going back to 2016. *See* Subpoena at 1; *Rich*, 2020 WL 5910069, at 5 (“While Rule 26 permits broad discovery for information that reasonably appears relevant, a higher threshold of relevancy must be imposed when First Amendment rights are implicated.”). Many of the example Reddit posts in Exhibit A to the Subpoena were posted prior to 2016. Moreover, the allegations in the Complaint relate to copyright infringement, which has a statute of limitations of three years. *See* Compl. ¶¶ 1-2; 17 U.S.C. § 507(b). Accordingly, it is not clear that the requests are directly and materially relevant to Plaintiff’s pursuit of its claims.

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Finally, Reddit's headquarters is in San Francisco, California. Should you seek to enforce the Subpoena, you must do so in the U.S. District Court for the Northern District of California. *See* Fed. R. Civ. P. 37(a)(2), 45(c)(2)(A), (d)(2)(B)(i), (g). Please contact me directly in order to satisfy your meet and confer obligations prior to filing any such motion. *See* Fed. R. Civ. P. 37(a)(1); N.D. Cal. Civil L.R. 37-1(a).

Please contact me if you have any questions or would like to meet and confer regarding any of these objections. In the meantime, Reddit does not waive and expressly reserves all available rights and objections.

Sincerely,

A handwritten signature in cursive script that reads "Emma Roberts".

Emma K. Roberts